



OFFICE OF THE ATTORNEY GENERAL OF TEXAS

AUSTIN

GERALD C. MANN  
ATTORNEY GENERAL

Honorable Geo. H. Sheppard  
Comptroller of Public Accounts  
Austin, Texas

Dear Mr. Sheppard:

Opinion No. O-2704

Re: Institutional purchase of  
supplies involving allocation  
of payment to different  
fiscal years.

Affirmed by C-625

We have your letter of August 30, 1940, as follows:

"One of the eleemosynary institutions, on August 5, 1940, contracted, through the Board of Control, for 100 tons of hay, to be delivered as directed by the institution. Only 20 tons of the hay had been delivered for use September 1, 1940. At the time the contract was made there was an appropriation available for the payment of the hay for the fiscal year ending August 31, 1940. The remainder of the hay is now directed for delivery during October and November, 1940.

"May this institution pay for this hay out of the appropriation made for the fiscal year ending August 31, 1940?"

"If not, may this order be divided and part paid out of the appropriation for this fiscal year and the other part out of the appropriation made for next fiscal year?"

We beg to advise that it is the opinion of this department that full payment for 100 tons of hay contracted for may not be made out of the appropriation made for the fiscal year ending August 31, 1940, but under the circumstances stated by you the order should be divided, and that portion of the bill for hay delivered for consumption during the fiscal year ending August 31, 1940, should be

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paid from the appropriation for that year, and that portion of the hay contracted for, and to be delivered and consumed during the fiscal year ending August 31, 1941, should be paid out of the appropriation for that year.

There is no inhibition against a purchase such as this being made upon a contract for delivery and use of the supplies during the succeeding fiscal year, and no public policy is contravened by such a practice. Indeed, such a practice may be a commendable one according to the circumstances.

This conclusion is supported by our Opinions Nos. 0-1008 and 0-2239, copies of which accompany this reply.

Very truly yours

ATTORNEY GENERAL OF TEXAS

By

*Ocie Speer*  
Ocie Speer  
Assistant

OS-MR

Enclosures

APPROVED SEP 9, 1940

*Gerard B. Mann*

ATTORNEY GENERAL OF TEXAS

